

EXHIBIT S

Emails regarding Preservation of Ballot Images

Subject: Re: Follow up on today's meeting
Date: Friday, January 28, 2022 at 3:52:18 PM Eastern Standard Time
From: Marilyn Marks
To: Ringer, Cheryl, Cary Ichter, Lowman, David
CC: Bruce Brown, Rob McGuire
Attachments: OEB 12-01-2020 Preserving Ballot Images for SOS.pdf, image001.png, image002.png, image003.png, image004.png

Cheryl,

Cary is in a deposition and I'll try to keep the ball moving forward here.

Note the attached OEB requiring the preservation of the Election Package and all images.

Also the below is the Election Board Rule was in effect beginning in March 2020 and through the November 2020 election.

Rule 183-1-12-.13 Storage of Returns.

(a) After tabulating and consolidating the results, the election superintendent shall prepare an electronic file which shall contain a copy of the information contained on each memory card which shall include all ballot images as well as vote totals and a copy of the consolidated returns from the election management system.

(b) The electronic file shall be stored on a secure medium which shall be placed in a sealed envelope or container and shall become a part of the election materials which shall be deposited with the clerk of superior court or the municipal clerk, as appropriate, in accordance with O.C.G.A. § 21-2-500. In addition, the signed results tape from each ballot scanner and the corresponding paper ballots shall also be deposited with the clerk of superior court.

(c) The memory cards shall be sealed in an appropriate container and securely maintained by the election superintendent until the period for requesting a recount of the primary, election, or run off results has expired. The election superintendent and at least one other sworn individual in the tabulating center shall seal the container and sign the seal such that the container cannot be opened without destroying or damaging the seal. Upon the expiration of the period for requesting a recount, the election superintendent may use the memory cards for programming ballot scanners units for the next primary, election, or runoff.

When David and I met with Rick, Nadine, Derrick and Dominic, we were told that the complete package with the images was sent to the SOS for the Recount although the original count images were not fully preserved. Please check the transmission correspondence so that we may inquire of the SOS again.

Thanks, and we will look forward to hearing from you next week to follow up on the documents and a time for the 30(b)(6).

Marilyn

From: "Ringer, Cheryl" <Cheryl.Ringer@fultoncountyga.gov>
Date: Friday, January 28, 2022 at 2:28 PM
To: Cary Ichter <Cichter@IchterDavis.com>, Marilyn Marks <Marilyn@USCGG.org>, "Lowman, David" <David.Lowman@fultoncountyga.gov>
Cc: Bruce Brown <bbrown@brucebrownlaw.com>, Rob McGuire <ram@lawram.com>
Subject: RE: Follow up on today's meeting

Cary, we discussed this, the ballot images were not saved. There was no requirement to save them, so they did not save them.

Sent via the Samsung Galaxy S20 FE 5G, an AT&T 5G smartphone

----- Original message -----

From: Cary Ichter <Cichter@IchterDavis.com>

Date: 1/28/22 1:46 PM (GMT-05:00)

To: "Ringer, Cheryl" <Cheryl.Ringer@fultoncountyga.gov>, Marilyn Marks <Marilyn@USCGG.org>, "Lowman, David" <David.Lowman@fultoncountyga.gov>

Cc: Bruce Brown <bbrown@brucebrownlaw.com>, Rob McGuire <ram@lawram.com>

Subject: RE: Follow up on today's meeting

So the County did not deliver the ballot images to the SOS? If they were disposed of, who made the decision to do that? We may need to talk to that person.

Cary Ichter, Partner

Ichter Davis, LLC

3340 Peachtree Road NE

Suite 1530

Atlanta, GA 30326

phone 404.869.5243

fax 404.869.7610

cell 404.769.1353

cichter@IchterDavis.com



This e-mail message and all attachments may contain legally privileged and confidential information intended solely for the use of the addressee. If you are not the intended recipient, you are hereby notified that you may not read, copy, distribute or otherwise use this message or its attachments. If you have received this message in error, please notify the sender by email and delete all copies of the message immediately.

From: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>

Sent: Friday, January 28, 2022 1:40 PM

To: Marilyn Marks <Marilyn@USCGG.org>; Cary Ichter <Cichter@IchterDavis.com>; Lowman, David <David.Lowman@fultoncountyga.gov>

Cc: Bruce Brown <bbrown@brucebrownlaw.com>; Rob McGuire <ram@lawram.com>

Subject: RE: Follow up on today's meeting

Cary,

I was out of the office early this morning and have been tied up all day. I have meetings the rest of this afternoon and David is in the Harvey deposition. I would also think that the attorneys that we may need from the State are in that deposition. We do not have the ballot images and the State is not going to have the ballot images, because the County did not save them. As for the RPDs, we inquired yesterday about supplemental documents, I am following up on that message now. I understand that we will still need to meet and confer next week to comply with the Court's request. What is your availability next week?



Cheryl Ringer, J.D., CPM®
Senior Assistant County Attorney
Office of the Fulton County Attorney
141 Pryor Street, Suite 4038, Atlanta, Georgia 30303
404-612-0246 (office)
404-612-0263(direct)
Connect with Fulton County:
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [FGTV](#) | [#OneFulton E-News](#)

From: Marilyn Marks <Marilyn@USCGG.org>
Sent: Friday, January 28, 2022 6:17 AM
To: Cary Ichter <Cichter@IchterDavis.com>; Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>
Cc: Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>
Subject: Re: Follow up on today's meeting

Thanks, Cary.
We also need to discuss dates for the 30b6 we noticed some time ago.
Marilyn

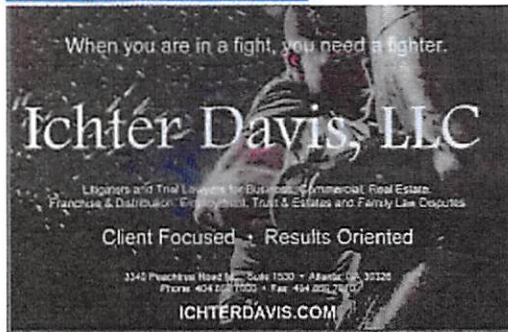
From: Cary Ichter <Cichter@IchterDavis.com>
Date: Friday, January 28, 2022 at 6:13 AM
To: "Ringer, Cheryl" <Cheryl.Ringer@fultoncountyga.gov>, "Lowman, David" <David.Lowman@fultoncountyga.gov>
Cc: Marilyn Marks <Marilyn@USCGG.org>, Bruce Brown <bbrown@brucepbrownlaw.com>, Rob McGuire <ram@lawram.com>
Subject: RE: Follow up on today's meeting

Cheryl: The way we left things yesterday with the judge was that we had 2 Fulton County issues: (i) Fulton and the SOS, as I recall, are obligated to work together to figure out where missing ballot images that were not included in the December 8 production and to make arrangements to produce those if they can be found and to provide some explanation if they cannot be found; and (ii) to discuss the RPDs covered in the attached email from yesterday morning and work out any supplemental production. We need to get this done today b/c resolution of these matters will bear on the deposition of Rick Barron which I understand is set for Monday morning. So, are you available this afternoon? If so when? Let's get something on the calendar. Cary

Cary Ichter, Partner
Ichter Davis, LLC
3340 Peachtree Road NE
Suite 1530
Atlanta, GA 30326
phone 404.869.5243
fax 404.869.7610

cell 404.769.1353

cichter@IchterDavis.com



This e-mail message and all attachments may contain legally privileged and confidential information intended solely for the use of the addressee. If you are not the intended recipient, you are hereby notified that you may not read, copy, distribute or otherwise use this message or its attachments. If you have received this message in error, please notify the sender by email and delete all copies of the message immediately.

From: Cary Ichter

Sent: Thursday, January 27, 2022 8:46 AM

To: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>

Cc: Marilyn Marks <Marilyn@USCGG.org>; Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>

Subject: RE: Follow up on today's meeting

Cheryl,

I have attached a copy of some of our correspondence related to the incomplete production of the November 2020 election files. We will need to give Judge Totenberg an update in the upcoming conference. Please let me know when we can expect the complete files or the reason that you clients cannot produce them. Cary

Cary Ichter, Partner

Ichter Davis, LLC

3340 Peachtree Road NE

Suite 1530

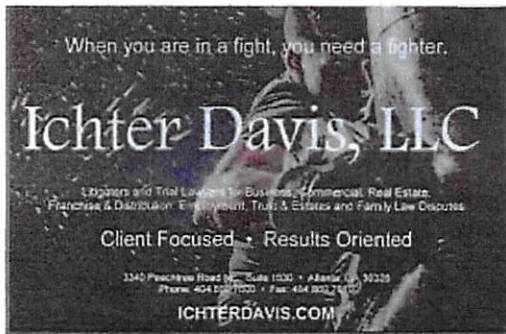
Atlanta, GA 30326

phone 404.869.5243

fax 404.869.7610

cell 404.769.1353

cichter@IchterDavis.com



This e-mail message and all attachments may contain legally privileged and confidential information intended solely for the use of the addressee. If you are not the intended recipient, you are hereby notified that you may not read, copy, distribute or otherwise use this message or its attachments. If you have received this message in error, please notify the sender by email and delete all copies of the message immediately.

From: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>
Sent: Monday, January 17, 2022 7:54 PM
To: Cary Ichter <Clichter@IchterDavis.com>; Lowman, David <David.Lowman@fultoncountyga.gov>
Cc: Marilyn Marks <Marilyn@USCGG.org>; Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>
Subject: RE: Follow up on today's meeting

Cary,

requested inspection.



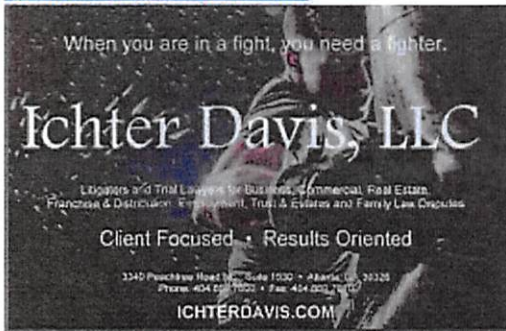
Cheryl Ringer, J.D., CPM®
Senior Assistant County Attorney
Office of the Fulton County Attorney
141 Pryor Street, Suite 4038, Atlanta, Georgia 30303
404-612-0246 (office)
404-612-0263(direct)
Connect with Fulton County:
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [FGTV](#) | [#OneFulton E-News](#)

From: Cary Ichter <Clichter@IchterDavis.com>
Sent: Monday, January 17, 2022 4:12 PM
To: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>
Cc: Marilyn Marks <Marilyn@USCGG.org>; Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>
Subject: RE: Follow up on today's meeting

Cheryl: I need an answer regarding whether the County will agree to a court order giving us

access to original ballots. If I do not have an answer by Wednesday, I will have no choice but to assume the answer is NO and to move forward seeking relief from the Court. Please let me know the County's position. Thanks Cary

Cary Ichter, Partner
Ichter Davis, LLC
3340 Peachtree Road NE
Suite 1530
Atlanta, GA 30326
phone 404.869.5243
fax 404.869.7610
cell 404.769.1353
cichter@IchterDavis.com



This e-mail message and all attachments may contain legally privileged and confidential information intended solely for the use of the addressee. If you are not the intended recipient, you are hereby notified that you may not read, copy, distribute or otherwise use this message or its attachments. If you have received this message in error, please notify the sender by email and delete all copies of the message immediately.

From: Cary Ichter
Sent: Friday, January 14, 2022 11:21 AM
To: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>
Cc: Marilyn Marks <Marilyn@USCGG.org>; Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>
Subject: RE: Follow up on today's meeting

[REDACTED]

We have suggested that given the grave questions of what has caused these irregularities, that we should seek a stay of the case (or perhaps an extension of the calendar) to conduct an examination of the necessary paper and electronic records in order to try to find out what happened here and then incorporate the facts and findings into depositions. We would like to have your input on that as well.

In the meantime, we need to arrange for the fairly immediate inspection of ballots, as we discussed. As we understand it, your view is that a court order is needed for such an inspection, and that appears to be

correct. I can draft a joint motion to the court seeking such an order, or I can start a discovery dispute document with the same goal. Obviously, it's easier for both of us if we have a simple joint motion seeking such an order.

Can you give me your input on that today? We would like to get it into the court right away. And we would like to arrange for inspection almost immediately upon the court granting an order.

Please let me hear from you today. Thanks Cary

Cary Ichter, Partner
Ichter Davis, LLC
Ste 1530
3340 Peachtree Road, NE
Atlanta, GA 30326-1084
(404) 869-7600
(404) 869-5243/DID
(404) 869-7610/Fax
(404) 769-1353/Cell
cichter@ichterdavis.com
www.ichterdavis.com

From: Marilyn Marks <Marilyn@USCGG.org>
Sent: Monday, January 10, 2022 2:28 PM
To: Ringer, Cheryl <Cheryl.Ringer@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>
Cc: Cary Ichter <Cichter@IchterDavis.com>; Bruce Brown <bbrown@brucepbrownlaw.com>; Rob McGuire <ram@lawram.com>
Subject: Follow up on today's meeting

Cheryl and David,

Thank you for your time today to go through some of the discrepancies and anomalies we have detected in the electronic records. I hope that we can arrange for a mutually beneficial inspection of the paper records to get to the bottom of what caused these double and triple counts and also the "strays" that were counted in either MC1 or MC2 but not both.

Here are some of the follow up things I said I'd send along--

1. See this video I shot in Gwinnett of the clerk attempting to enter the batch sheets for the hand tally. As you can see, the SOS Audit application ("Arlo") was so slow that the clerk typed in the tallies and had to wait for long periods for the system to respond. Accuracy was quite a challenge. It is not surprising that clerks entered tallies twice and three times when experiencing such delays.

<https://twitter.com/marilynmarks1/status/1431732389974364166?s=21>

However, the SOS claimed that they were reviewing all the audit worksheets for a day or two after the completion of the audit. And Conny McCormack (a contractor for Voting Works) made the attached statement in a newspaper article—that SOS and VW made certain that no duplicates were on the worksheets and that all batch sheets were on the worksheet output. Obviously, that did not happen as SOS/VW claim. Again, only SOS and VW had access to

the data that was entered into the Arlo application.

2. The Kemp report attached covers several of the duplicate entries, and we agree with most of those, although we disagree with some of the implications that large batches of one candidate votes were questionable. But the Kemp report *leaves out* the batch sheets amounting to a significant number of ballots that were counted on the orange batch tally sheets but not posted on the final audit worksheet. (It is unclear whether the batch sheet tally was never entered by Fulton or whether it was adjusted out by the SOS/ VW staff.). Nevertheless, the audit tallies were flawed because of the number of entries that were posted more than once, and those that were not posted at all.

It should be remembered that the audit tallies and double counting those has no impact on the official tallies. But double-scanning can, of course.

3. The RW01 electronic triple count of the some ballots we discussed is demonstrated in this example attached. As we discussed, considerable double and triple counting occurred in the BMD ballots, but is harder to detect because of the lack of unique markings in most cases. Quite a lot of ballots were triple counted in the Recount.

4. I forgot to show you the ballot adjudication that was done at 5:10 am after scanning at 2:35 am. See attached. As you know, bi-partisan vote review panel members are required to conduct the adjudication which is literally changing the vote counts on the official record. We understand from your responses that no Vote Review Panels were convened prior to 7 am. It appears however that someone was making unauthorized electronic changes to the vote tallies during these odd hours. There are numerous examples in the records.

Happy to discuss any of these things further if helpful.

Please let us know what you learn about the still-missing files. They are summarized in Cary's memo which is attached.

We look forward to hearing from you on your view on how best to proceed with a target sample ballot inspection.

Thank you again.

Marilyn Marks
Executive Director
[Coalition for Good Governance](#)
Cell: 970 404 2225
Marilyn@USCGG.org
Follow me [@MarilynRMarks1](#)